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SUBJECT: EU: PARLIAMENT AGREES ON RENEWABLES DIRECTIVE;
DEBATE WITH COUNCIL AND COMMISSION STILL TO COME

REF: A. BRUSSELS 1171
[1](#)B. BRUSSELS 117
[1](#)C. STATE 98110

[1](#)1. (SBU) Summary: The European Parliament,s Industry Committee on September 11 reached an agreement on a set of compromise amendments during the first reading on the Commission,s proposed Renewable Energy Directive. However, this only represents the EP,s negotiating position, and it is likely that the Council and Commission will make several changes to the text over the next few months. The French Presidency remains determined to complete this directive by December, as part of the Climate and Energy Package, and the Parliament has indicated it is working to fulfill that objective. The major agreements from the compromise are:

-- At least 20% of all energy generated in the EU in 2020 must come from renewable sources. In addition, to achieve these goals, the Parliament added mandatory interim targets for each member state on which the Commission can impose penalties for non-compliance;

-- The Parliament allowed for the statistical transfer of renewable energy from a state exceeding its targets to one which is falling short, as well as the possibility for member states to combine their targets and work together jointly to achieve a new collaborative target. However, each of these avenues are subject to extensive review and oversight by the Commission;

-- The 10% target for the use of alternative fuels in transport for 2020 was maintained (frequently referred to as the biofuels target, but which includes electric vehicles and hydrogen fuel cells), but added that at least 40% of this value must come from sources other than first generation biofuels. Also, a 5% interim target for 2015 and a technological review in 2014 were added, both of which have the aim of allowing the EU to back off of the 10% target if new technologies are not yet commercialized; and

-- The threshold for greenhouse gas emissions improvements of biofuels over fossil fuels was increased from the Commission,s proposed 35% to 45% with an increase to 60% in [1](#)2015. The Council, the Commission, and the largest political

party in Parliament, the EPP-ED, are in disagreement with this change and should press to move back to the original numbers. End Summary.

Renewables Directive background

12. (SBU) Released as part of the Commission's Climate and Energy Package in January, 2008, the Renewables Directive has been contentious primarily for its treatment of biofuels. There have been few major objections to the EU's objective of 20% of total energy supply to come from renewable by 2020.

To achieve this target, each member state was given an individual target, ranging from Malta at 10% to Sweden at 49%, based upon current use of renewables and expected future performance. A few member states have voiced concerns that their targets are too high, but there has been no real push to change the targets. The Commission originally proposed a firm 10% target for the use of alternative fuels in transport. This has been referred to as the biofuels target, despite encompassing electric cars and hydrogen fuel cells. Given recent negative press coverage on and the NGO campaign against biofuels, this aspect of the Directive has received the most scrutiny. (Note: The Commission has been quick to admit it was originally poorly written. End note.) Thus, Parliament has worked over the past several months to soften the target, and Member of European Parliament (MEP) Claude Turmes (Lux, Greens), the Rapporteur for the Directive, originally attempted to eliminate the target completely.

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20% by 2020, but several possible avenues to get there

13. (SBU) Parliament reinforced the Commission's proposal of 20% share of renewables across the EU by 2020, but added in a set of mandatory interim targets. These interim targets are designed to ensure that each member state is on track to reach its final 2020 target. The EU does not want to choose the technologies used to meet the targets, so each member state can select the mix best suited to its particular situation. However, the Commission still maintains some level of oversight, and each member state is required to submit its national action plan to the Commission for review by 31 March 2010. To ensure enforcement, the Parliament added a direct penalty mechanism in which the Commission has the power to fine member states for non-compliance. No specific levels were indicated, but the text stated that the levels should be sufficiently steep so as to provide a strong incentive to meet the goals. (Note: This often is a contentious issue in the EU, as most legislation, particularly as applied to climate and energy issues, is not binding, in that there frequently are no penalties for failure to meet the terms of the legislation. End note.)

14. (SBU) Parliament, in its effort both to meet the EU-wide 20% target and to encourage cooperation, added two clauses; one to allow statistical transfer of renewable energy credits between member states and one to allow for member states to pool their collective resources and work toward a combined target. In the first instance, the Parliament recognized that there may be circumstances where a country anticipates falling short of its target for some reason. In cases such as this, Parliament has allowed for the statistical transfer of renewable energy credits from one state exceeding its target to one which is coming short (the terms of the transfer will be up to the states involved). In the second instance, Parliament looked to take into account efforts by member states to develop joint projects which may extend to truly joint efforts to meet the targets. In this case, the two or more member states can apply for a new joint target which will be calculated by the Commission. If this occurs, all member states involved are accountable for success or

failure of the new target.

Biofuels targeted, but more supporters appearing

15. (SBU) MEP Turmes succeeded in strengthening some aspects of the renewables in transport provisions, but was unable to go as far as he would have liked given fairly strong opposition, notably from the EPP-ED, the largest political party in the Parliament. One key issue which remains, and was reinforced, is that the biofuels provisions apply to biofuels produced anywhere in the world. Turmes, efforts to eliminate the 10% target for 2020 failed, but he was able to incorporate an unambitious interim target of 5% for 2015. Given that the EU previously committed to a 5.75% share of biofuels in 2010, this is a large step back. In addition, both the 2015 and 2020 targets have stipulations that a certain percentage come from sources other than first generation*from food sources*biofuels; 20% of the 2015 target and 40% of the 2020 target. (Note: the Energy Independence and Security Act (EISA) in the U.S. has a similar stipulation; 21 billion gallons of the mandated 36 billion gallons of biofuels in 2022 must come from advanced biofuels. End note.) Additionally, Turmes incorporated an impact assessment requirement for 2014 to evaluate the state of technology, the consequences for food security, the greenhouse gas emissions, and the sustainability criteria for all fuels used in all forms of transport (maritime and aviation included). This assessment can then be used to determine if the 2020 target should be modified.

16. (SBU) Turmes also succeeded in raising the threshold for greenhouse gas emissions savings over conventional fossil

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fuels from 35% to 45%, an increase to 60% in 2015, and existing plants having until 2013 to comply. Unlike the 10% target, this was not as widely supported, with the EPP-ED proposing a counter-amendment keeping the current threshold at 35% and then increasing to 50% in 2015. (Note: EISA also has a step system for GHG emission savings thresholds, which is defined by technology, not by date. Conventional, corn-based bioethanol is required to have a 20% GHG savings, advanced biofuels 50% savings, and cellulosic biofuels 60% savings. End note.) To calculate the GHG savings, the Parliament added a term for indirect land use change. Until 31 December 2011, there will be no counting of indirect land use change, providing a buffer for the Commission to proceed with the calculations. By 1 January 2012, if the Commission has not made a satisfactory decision for how to incorporate indirect land use change, a default value of 40 g of CO2 equivalent per megajoule of energy produced will be used.

17. (SBU) In an effort to strengthen wording related to sustainability criteria for biofuels, the Parliament added several clauses pertaining to land use and social criteria. Originally, the Commission called out several types of &no-go8 land, including undisturbed forest, areas designated for nature protection, and highly biodiverse grassland, using January 2008 as the baseline for determination. Parliament has pushed that date back to May 2003 (Turmes tried to move it to 1990), and has added areas that provide basic ecosystem services such as watershed protection and erosion control; strengthened language on areas designated for nature protection that contain rare, threatened, or endangered ecosystems; areas with a substantial concentration of rare, threatened, or endangered species; and wetlands, peatlands, and savannah, all of which contain a high carbon stock. Additionally, Parliament incorporated social criteria which demand that effective measures be taken to ensure that the production of raw materials do not involve child or forced labor as under the International Labor Organization conventions and that comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention of Biological

Diversity, the Cartagena Protocol on Biosafety, and the United Nations Framework Convention on Climate Change and its related Kyoto Protocol. (Note: While this is a step back from the original proposal that demanded that biofuels producing countries be a signatory to all of the above treaties and conventions, the Commission still remains unconvinced that these clauses will stand up in the WTO. End note.)

18. (SBU) To ensure compliance of all of the above, the Commission is required to submit a report to the Parliament and the Council every two years beginning in 2012. Parliament strengthened the requirements of this report, requiring the Commission to report on the effects of the biofuels policy. Specifically, the Commission is asked to analyze the relative environmental and social effects of biofuels; the effects on food prices, focusing on Low Income Food Deficit Countries and Least Developed Countries; the impact on direct and indirect land use change; and the availability of advanced biofuel technologies. If the Commission deems that any aspect of the policy is harmful to global concerns, the Commission then is asked to propose corrective action. There is little information as to how binding these reports will be or how the Parliament and Council will treat them.

Initial reaction from industry insider not positive

19. (SBU) In conversations, one industry representative expressed concern with the decisions taken during the vote, but indicated that there will still be movement on the final text. The maintenance of the 10% target is supported, but the interim 5% target was considered too low, highlighting the 2010 commitment of 5.75%. However, there was belief that

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member states will not be willing to adopt an interim target. Additionally, the representative claimed that the 60% threshold is unlikely to be achieved with anything other than Brazilian sugar cane, so 50% with incentives for exceeding performance would be more effective. The indirect land use change amendment was strongly contested, given that the scientific understanding still is not complete and therefore not ready to develop a methodology. Using a single value also is considered highly problematic given differences in global environments, and the use of 40 gCO₂eq/MJ was questioned, as a current crop based biofuel could be required to deliver over 100% GHG emission savings.

Debate to continue, though press not always mentioning it

110. (SBU) Comment: The amendments presented in this vote, while overwhelmingly approved in ITRE (50-2 in favor), do not represent the final text of the Directive. In addition to EPP-ED opposition to several of the amendments, the member states and the Commission also have expressed major reservations. Notably, the Council tentatively agreed in August to support a 35% GHG emissions reduction threshold, with an increase to 50% sometime after 2015 (2017 is often mentioned), and both the Commission and the EPP-ED support this strategy. There are also indications member states will not accept any interim targets on renewables, including biofuels. Effectively, this vote sets forth the Parliament's negotiating position, and we expect several meetings between Parliament, Council, and Commission representatives to work out an agreement. However, the European press has not always been quick to make this clear. The press has been one of the largest detractors of biofuels, and many press reports have implied that this set of amendments will form the final text.

111. (SBU) Given the mixed opinions on the biofuels aspects of

the Directive, there remains an opportunity for U.S. engagement. The text as written provides a few instances in which the Commission is afforded a few years (indirect land use change calculations is one) to develop an implementing scheme. Given that the Parliament is amenable to this approach in at least one issue, the opportunity exists to extend this to calculations of the GHG reductions and development of sustainability criteria, thereby allowing the U.S. and the EU to cooperate on developing compatible criteria. The French Presidency continues to press for this legislation, as part of the Climate and Energy Package, to be completed by the December Council. However, Poland has expressed displeasure with the emissions reduction requirements in the emissions trading scheme and is not convinced it will be able to meet the renewables targets set for it by the Commission. To that end, the Polish European Affairs Minister recently stated that it may look to delay passage of the Climate and Energy Package until March or April 2009. If successful, Parliament may no longer see the pressure to complete negotiations by the end of the year, providing an extra three to four months of discussions. End comment.

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